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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

ROXANA ARVANDI,)	
)	
Plaintiff,)	No. C 07-6039 RS
)	
v.)	
)	
F. GERARD HEINAUER, in his Official)	ANSWER
Capacity, Director, Nebraska Service Center,)	
U.S. Citizenship and Immigration Services,)	
U.S. Department of Homeland Security,)	
CHRISTINA POULOS, in her Official Capacity,)	
Director, California Service Center, U.S.)	
Citizenship and Immigration Services, U.S.)	
Department of Homeland Security; EMILIO T.)	
GONZALEZ, in his Official Capacity, Director,)	
U.S. Citizenship and Immigration Services, U.S.)	
Department of Homeland Security; MICHAEL)	
CHERTOFF, in his Official Capacity, Secretary,)	
U.S. Department of Homeland Security;)	
MICHAEL B. MUKASEY, in his Official)	
Capacity, Attorney General, U.S. Department of)	
Justice; and ROBERT S. MUELLER, III, in his)	
Official Capacity, Director, Federal Bureau of)	
Investigation,)	
)	
Defendants.)	

Defendants hereby submit their answer to Plaintiff's Petition for Writ of Mandamus.

INTRODUCTION

1. Paragraph One consists of Plaintiff's characterizations of the lawsuit for which no answer is

1 necessary; however, to the extent a response is deemed to be required, the allegations in Paragraph
2 One are denied.

3 2. Paragraph Two consists of Plaintiff's characterizations of the lawsuit for which no answer
4 is necessary; however, to the extent a response is deemed to be required, the allegations in
5 Paragraph Two are denied.

6 3. Defendants admit the allegations in Paragraph Three.

7 4. Defendants admit the allegations in Paragraph Four.

8 5. Defendants admit the allegations in Paragraph Five; however, any public information
9 regarding processing times refers to cases within the control of USCIS, not cases with pending FBI
10 name checks.

11 6. Defendants deny the allegations in Paragraph Six.

12 **JURISDICTION AND VENUE**

13 7. Paragraph Seven consists of Plaintiff's allegations regarding jurisdiction, to which no
14 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
15 Defendants deny the allegations in this paragraph.

16 8. Paragraph Eight consists of Plaintiff's allegations regarding venue, to which no responsive
17 pleading is required.

18 9. Defendants admit the allegations in Paragraph Nine.

19 **PARTIES**

20 10. Defendants admit the allegations in Paragraph Ten.

21 11. Defendants admit the allegations in Paragraph Eleven.

22 12. Defendants admit the allegations in Paragraph Twelve.

23 13. Defendants admit the allegations in Paragraph Thirteen.

24 14. Defendants admit the allegations in Paragraph Fourteen.

25 15. Defendants admit the allegations in Paragraph Fifteen.

26 16. Defendants admit the allegations in Paragraph Sixteen.

27 **FACTUAL ALLEGATIONS**

28 17. Defendants admit the allegations in Paragraph Seventeen.

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1 18. Defendants admit the allegations in Paragraph Eighteen.

2 19. Defendants admit the allegations in Paragraph Nineteen.

3 20. Defendants are without sufficient information to admit or deny the allegations in Paragraph
4 Twenty.

5 21. Defendants are without sufficient information to admit or deny the allegations in
6 Paragraph Twenty-One.

7 22. Defendants are without sufficient information to admit or deny the allegations in
8 Paragraph Twenty-Two.

9 23. Defendants are without sufficient information to admit or deny the allegations in
10 Paragraph Twenty-Three.

11 24. Defendants are without sufficient information to admit or deny the allegations in
12 Paragraph Twenty-Four.

13 25. Defendants are without sufficient information to admit or deny the allegations in
14 Paragraph Twenty-Five.

15 26. Defendants are without sufficient information to admit or deny the allegations in
16 Paragraph Twenty-Six.

17 27. Defendants admit the allegations in Paragraph Twenty-Seven; however, any public
18 information regarding processing times refers to cases within the control of USCIS, not cases with
19 pending FBI name checks.

20 28. Defendants deny the allegations in Paragraph Twenty-Eight.

21 **CAUSE OF ACTION**

22 29. Defendants incorporate their responses to Paragraph One through Twenty-Eight as if set
23 forth fully herein.

24 30. Defendants admit the allegations in Paragraph Thirty.

25 31. Defendants admit that Plaintiff meets the approved visa petition requirement for
26 adjustment.

27 32. Defendants admit the allegations in Paragraph Thirty-Two.

28 33. Defendants admit the allegations in Paragraph Thirty-Three; however, any public

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1 information regarding processing times refers to cases within the control of USCIS, not cases with
2 pending FBI name checks.

3 34. Defendants admit the allegations in Paragraph Thirty-Four.

4 35. Defendants deny the allegations in Paragraph Thirty-Five.

5 36. Defendants deny the allegations in Paragraph Thirty-Six.

6 37. Defendants deny the allegations in Paragraph Thirty-Seven.

7 **PRAYER**

8 The remaining paragraphs consists of Plaintiff's prayer for relief, to which no admission or
9 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny
10 this paragraph.

11 **FIRST AFFIRMATIVE DEFENSE**

12 The court lacks jurisdiction over the subject matter of this action.

13 **SECOND AFFIRMATIVE DEFENSE**

14 The Petition fails to state a claim against the Defendants upon which relief can be granted.

15 **THIRD AFFIRMATIVE DEFENSE**

16 No acts or omissions by the United States or its employees were the proximate cause of any
17 injury or damages to the Plaintiff.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 At all times alleged in the complaint, Defendants were acting with good faith, with
20 justification, and pursuant to authority.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 Defendants are processing the application referred to in the Petition to the extent possible at
23 this time. Accordingly, no relief as prayed for is warranted.

24 ///

25 ///

1 WHEREFORE, Defendants pray for relief as follows:

2 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's Petition
3 with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief as it deems
4 just and proper under the circumstances.

5 Dated: January 29, 2008

Respectfully submitted,

6 JOSEPH P. RUSSONIELLO
7 United States Attorney

8 /s/
9 ILA C. DEISS
10 Assistant United States Attorney
11 Attorneys for Defendants
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